

# ARKANSAS SUPREME COURT

No. 06-763

NOT DESIGNATED FOR PUBLICATION

WALTER A. MCCULLOUGH  
Petitioner

v.

JUDICIAL DISCIPLINE AND  
DISABILITY COMMISSION  
Respondent

Opinion Delivered    October 12, 2006

*PRO SE* MOTION FOR LEAVE TO  
PROCEED *IN FORMA PAUPERIS*  
[COMPLAINT NO. 06-141]

MOTION DENIED

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## PER CURIAM

Petitioner Walter A. McCullough filed a complaint with the Arkansas Judicial Discipline and Disability Commission against the circuit court judge who presided at his trial in a criminal matter. The complaint was dismissed on May 19, 2006. Petitioner has tendered a petition for writ of *certiorari* for review by this court of the Commission's dismissal of the complaint. Petitioner subsequently filed the instant motion for leave to proceed *in forma pauperis* seeking to file the petition for writ of *certiorari* without paying the required filing fee.

A complaint filed with the Commission is a civil matter. Rule 72 of the Arkansas Rules of Civil Procedure conditions the right to proceed *in forma pauperis* in civil matters on, among other things, the court's satisfaction that the alleged facts indicate a colorable cause of action. *Boles v. Huckabee*, 340 Ark. 410, 12 S.W.3d 201 (2000) (*per curiam*). A colorable cause of action is a claim that is legitimate and may reasonably be asserted given the facts presented and the current law or a reasonable and logical extension or modification of it. *Id.* Petitioner has not demonstrated such a

claim here.

Petitioner contends only that he is entitled to proceed *in forma pauperis* because he is entitled to the relief sought in the petition for writ of *certiorari* and that the petition is not brought for any frivolous or malicious purpose. Such a statement does not constitute a showing of a colorable cause of action.

Petitioner here is responsible for remitting the required filing fee at his expense within thirty days of the date of this opinion if he desires to proceed with the tendered petition for writ of *certiorari*. See *Young v. Black*, \_\_\_ Ark. \_\_\_, \_\_\_ S.W.3d \_\_\_ (April 20, 2006).

Motion denied.